



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.539 OF 2016

Suman Madhav Dhake
Age – 70 years, residing at
Laxmi Nagar, Behind Ladies Hostel,
Yawal Road, Faizpur, Taluka : Yawal,
Dist – Buldhana, State : Maharashtra

...Appellant
(Original applicant)

Versus

The Union of India,
Represented by the General
Manager, Central Railway,
Mumbai : CST

...Respondent
(Original respondent)

Mr. Mohan Rao for the Appellant.

Mr. T. J. Pandian a/w Mr. Gautam Modanwal & Mr. Prasad Sawant for
the Respondent.

CORAM : JITENDRA JAIN, J.
DATE : 20 APRIL 2026

JUDGMENT:

1. This appeal is filed by the original applicant to challenge the order of the Railway Claims Tribunal, Mumbai (for short ‘Tribunal’) dated 9 March 2015, whereby the application came to be rejected primarily on the ground that the incident did not fall within the meaning of the term ‘‘untoward incident’’ as defined under Section 123 of the Railways Act, 1989. There is a finding in the Tribunal’s order that the original ticket was recovered and same was recorded in the inquest panchnama and also filed with the application.

2. Being aggrieved by the above dismissal, the original applicant has filed the present appeal in this Court.

3. I have heard Mr. Rao, learned counsel for the original applicant-appellant and Mr. Pandian, learned counsel for the respondent-railways.

4. The deceased was a doctor by profession and had come to Mumbai for giving his D.G.O. exam. On 17 October 2007, the deceased purchased a railway ticket at around 9:30 pm to go back from Mumbai CST to Bhusawal. The ticket is at page 10 of the compilation of documents. At around 11:30 pm when the train was between Mulund and Thane Railway Station, the deceased met with the accident resulting into his death.

5. The Tribunal has come to a conclusion that the deceased was knocked down by an unknown train by relying upon station master memo (SM memo), police report, inquest panchnama, postmortem report and the deposition of the Government Railway Police (GRP). The first document which was prepared after the accident was the SM memo and thereafter, all the documents have picked up the reason of knocking down by an unknown train from the said document. Therefore, it is relevant to examine the efficacy of the SM memo.

6. The SM memo is prepared by the station master of Thana. Admittedly, the incident happened between Mulund and Thane Railway Station. It is not the case of the station master that he had witnessed the deceased being knocked down by an unknown train. There is no eyewitness to say that the deceased was knocked down by an unknown train. Therefore, the whole basis of the station master's report which has been subsequently adopted by the other authorities, that the deceased was knocked down by an unknown train is without any basis.

7. The chain of events of purchasing a ticket at 9:30 pm for travelling to Bhusawal by Express Train and the timing of the incident at 11:30 pm between Mulund and Thane Railway Station, goes on to

show that it cannot be a case of the deceased being knocked down by an unknown train. There are no details of the train number which has knocked down the deceased nor was any motorman or guard is examined or they reported to the station master about the incident. Therefore, the submission that the deceased was knocked down by an unknown train cannot be accepted.

8. The only probable conclusion which can be drawn is that the deceased was travelling in a second class compartment in Express Train and after correlating the timings mentioned above the only probability could be of the deceased falling down from the Express Train in which he was travelling. Therefore, in my view, the incident falls within the definition of an “untoward incident” as defined under Section 123 of the Railways Act, 1989 and it is not a case of the deceased having knocked down by an unknown train. Therefore, the finding on issue number 1 by the Tribunal is reversed.

9. The original ticket was recovered and was filed alongwith the original application. Therefore, the deceased was a “*bona fide* passenger”.

10. The contention of the respondent with respect to discrepancy in age for submitting that the Tribunal was justified in rejecting the claim cannot be accepted. There was nobody accompanying the deceased. The station master in his report has mentioned 26 years approximately. The original application mentions the age as 29 years, though there is a typographical error at some places, wherein at some places the application states 26 years. The age mentioned on the ticket is 31 years. Whether 31 is an age or something else is not clear from the ticket because generally when a person buys a second class railway ticket to travel in Express Train, age is not asked at the counter. Therefore, in my view, the contention of the respondent to reject the claim on the ground

of some discrepancy in age cannot be accepted.

11. The Tribunal has given a finding that based on legal heir certificate the relationship has been proved. However, thereafter the Tribunal gives a finding that the ration card and father's death certificate have not been filed. In my view, the legal heir certificate has better credential value and merely because ration card and the death certificate of the father are not produced that cannot be a ground to say relationship is not proved. Therefore, even on this count, the finding of the Tribunal is reversed.

12. In any case, the Tribunal has given a finding that relationship is not relevant since it does not fall within the definition of an "untoward incident". In my view, legal heir certificate proves the relationship and the "untoward incident" finding of the Tribunal has been reversed. Therefore, even this finding is to be answered in favour of the original applicant.

13. The original applicant to file the copy of the present order and the respondent is directed to remit by bank transfer the amount of compensation of Rs.4,00,000/- alongwith interest @ 6% per annum from the date of the accident till realisation, subject to a cap of Rs.8,00,000/- to the bank account of the applicant within eight weeks from the applicant making such an application and giving bank details.

14. The appeal is disposed of in above terms.

[JITENDRA JAIN, J.]